
By: **Montgomery County Delegation and Prince George's County
Delegation**

Introduced and read first time: February 9, 2001

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland-National Capital Park and Planning Commission - Park Police**
3 **Officers - Binding Arbitration**
4 **MC/PG 113-01**

5 FOR the purpose of requiring that collective bargaining between the
6 Maryland-National Capital Park and Planning Commission and the exclusive
7 representative of the bargaining unit for Park Police officers begin not later
8 than a certain date each year and end not later than a certain date each year;
9 requiring that negotiations be conducted in good faith; establishing a procedure
10 for resolving a negotiability dispute; repealing certain provisions authorizing
11 the appointment of a fact finder and the use of fact-finding procedures when
12 there is an impasse in collective bargaining between the Commission and the
13 exclusive representative for the Park Police officers; establishing procedures for
14 the appointment of an arbitrator and for binding arbitration when there is an
15 impasse; setting certain deadlines; requiring the arbitrator to take certain
16 actions in determining a final reasonable offer; requiring the arbitrator to direct
17 the parties to submit certain memoranda outlining previous offers and
18 agreements and hold a nonpublic hearing to consider the proposals submitted by
19 the parties; limiting the items which the arbitrator may consider in selecting a
20 final offer; prohibiting the arbitrator from compromising or altering the final
21 offer selected; providing that the parties need not ratify, but must execute, the
22 final offer; providing for the treatment of the final offer; providing that the
23 economic terms of the final offer are subject to being funded by the Montgomery
24 and Prince George's county councils; requiring the Commission to request funds
25 for all economic provisions of the final agreement in the Commission's final
26 budget; requiring the parties to reopen negotiations if the county councils do not
27 fund all provisions of the final agreement; requiring the parties to share equally
28 in paying the costs of arbitration; making certain stylistic changes; providing for
29 the application of this Act; and generally relating to procedures for the
30 appointment of an arbitrator and binding arbitration in collective bargaining
31 between the Maryland-National Capital Park and Planning Commission and
32 the exclusive representative for Park Police officers.

33 BY repealing

1 Article 28 - Maryland-National Capital Park and Planning Commission
 2 Section 5-114.1(a)(12)
 3 Annotated Code of Maryland
 4 (1997 Replacement Volume and 2000 Supplement)

5 BY renumbering
 6 Article 28 - Maryland-National Capital Park and Planning Commission
 7 Section 5-114.1(a)(13), (14), (15), (16), and (17), respectively
 8 to be Section 5-114.1(a)(12), (13), (14), (15), and (16), respectively
 9 Annotated Code of Maryland
 10 (1997 Replacement Volume and 2000 Supplement)

11 BY repealing and reenacting, with amendments,
 12 Article 28 - Maryland-National Capital Park and Planning Commission
 13 Section 5-114.1(e) and (f)
 14 Annotated Code of Maryland
 15 (1997 Replacement Volume and 2000 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 17 MARYLAND, That Section(s) 5-114.1(a)(12) of Article 28 - Maryland-National
 18 Capital Park and Planning Commission of the Annotated Code of Maryland be
 19 repealed.

20 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5-114.1(a)(13),
 21 (14), (15), (16), and (17), respectively, of Article 28 - Maryland-National Capital Park
 22 and Planning Commission of the Annotated Code of Maryland be renumbered to be
 23 Section(s) 5-114.1(a)(12), (13), (14), (15), and (16), respectively.

24 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 25 read as follows:

26 **Article 28 - Maryland-National Capital Park and Planning Commission**

27 5-114.1.

28 (e) (1) The certified employee organization and the MNCPPC have the
 29 obligation to engage in collective bargaining. This obligation does not compel either
 30 party to agree to a proposal or to make a concession to the other.

31 (2) [It is declared to be in the public interest that, in the course of
 32 collective bargaining, the MNCPPC and the exclusive representative make every
 33 reasonable effort to conclude negotiations prior to the budget submission date of the
 34 MNCPPC, in order that the appropriate legislative body may act on the operating
 35 budget of the MNCPPC.]

36 (I) 1. COLLECTIVE BARGAINING SHALL BEGIN NOT LATER
 37 THAN SEPTEMBER 1 BEFORE THE BEGINNING OF AN ENTIRE FISCAL YEAR FOR

1 WHICH AN AGREEMENT HAS NOT BEEN REACHED BETWEEN THE COMMISSION AND
2 THE CERTIFIED EMPLOYEE ORGANIZATION.

3 2. COLLECTIVE BARGAINING SHALL CONCLUDE ON OR
4 BEFORE THE FOLLOWING JANUARY 15.

5 (II) DURING THE PERIOD SET IN SUBPARAGRAPH (I)1 OF THIS
6 PARAGRAPH, THE PARTIES SHALL NEGOTIATE IN GOOD FAITH.

7 (3) (I) IF A PARTY CONSIDERS A BARGAINING PROPOSAL TO
8 CONTRAVENE THE RESPONSIBILITIES OF THE COMMISSION UNDER SUBSECTION (G)
9 OF THIS SECTION, OR THE RIGHTS OF EMPLOYEES OF THE COMMISSION UNDER
10 SUBSECTION (H) OF THIS SECTION, OR TO OTHERWISE VIOLATE THIS SECTION, THE
11 PARTY SHALL PETITION THE LABOR RELATIONS ADMINISTRATOR FOR A
12 DETERMINATION OF WHETHER THE BARGAINING PROPOSAL CONSTITUTES A
13 NEGOTIABILITY DISPUTE THAT CONTRAVENES THIS SECTION.

14 (II) THE PROCEDURE FOR RESOLVING A NEGOTIABILITY DISPUTE
15 SHALL FOLLOW THE PROCESS FOR REVIEWING UNFAIR LABOR PRACTICE CHARGES,
16 EXCEPT THAT THE LABOR RELATIONS ADMINISTRATOR MAY SHORTEN THE TIME
17 PERIODS OR ORDER ANY EXPEDITED PROCEDURE APPROPRIATE UNDER THE
18 CIRCUMSTANCES.

19 (III) THE LABOR RELATIONS ADMINISTRATOR MAY ORDER A PARTY
20 TO WITHDRAW ALL OR PART OF A BARGAINING PROPOSAL THAT CONTRAVENES THIS
21 SECTION.

22 (IV) UNLESS APPEALED ON THE BASIS OF BEING ARBITRARY,
23 CAPRICIOUS, OR EXCEEDING THE AUTHORITY OF A PARTY, ANY DECISION AND
24 ORDER REACHED UNDER THIS SUBSECTION IS FINAL.

25 [(3)] (4) (i) A mediator may be utilized by the parties in collective
26 bargaining whenever the parties mutually agree or if an impasse exists whenever one
27 party requests mediation.

28 (ii) The mediator shall be selected by the parties from a list
29 supplied by either the American Arbitration Association or the Federal Mediation and
30 Conciliation Service.

31 [(4) (i) The parties by mutual agreement may engage in fact-finding. If
32 there is not mutual agreement, either party at impasse, may request the appointment
33 of a fact finder to initiate fact-finding. The fact finder shall be selected as provided in
34 subparagraph (ii) of this paragraph.

35 (ii) The MNCPPC and the exclusive representative may select their
36 own fact finder from a list supplied by the American Arbitration Association or the
37 Federal Mediation and Conciliation Service. If the parties are unable to reach
38 agreement on fact-finding, a fact finder shall be selected pursuant to the rules of the
39 agency that provides the list. The cost of fact-finding shall be paid equally by
40 MNCPPC and the employee organization.

1 (iii) The fact finder shall conduct hearings and may administer
2 oaths. The fact finder shall make written findings of fact and recommendations for
3 resolution of the impasse. No later than 30 days from the date of appointment the fact
4 finder shall transmit the findings to the MNCPPC and the exclusive representative.
5 If the impasse continues 10 days after the report is submitted to the parties, the
6 report shall be made available to the public.

7 (iv) Costs of fact-finding shall be borne equally by the parties.]

8 (5) (I) IF THE PARTIES HAVE NOT REACHED AN AGREEMENT ON OR
9 BEFORE JANUARY 15 ON A COLLECTIVE BARGAINING AGREEMENT THAT WOULD
10 SUCCEED THE EXISTING AGREEMENT, EITHER PARTY MAY DECLARE A BARGAINING
11 IMPASSE AND THE PARTIES TOGETHER SHALL NOMINATE AN ARBITRATOR.

12 (II) 1. IF THE PARTIES HAVE USED A MEDIATOR DURING THE
13 BARGAINING CYCLE, THE MEDIATOR SHALL BECOME THE ARBITRATOR.

14 2. IF THE PARTIES HAVE NOT USED A MEDIATOR DURING
15 THE BARGAINING CYCLE AND THE PARTIES ARE UNABLE TO AGREE ON AN
16 ARBITRATOR, THE LABOR RELATIONS ADMINISTRATOR SHALL NAME THE
17 ARBITRATOR ON JANUARY 15.

18 (III) ON OR BEFORE JANUARY 18, THE ARBITRATOR SHALL DIRECT
19 THE PARTIES TO SUBMIT:

20 1. A JOINT MEMORANDUM LISTING ALL ITEMS TO WHICH
21 THE PARTIES PREVIOUSLY AGREED; AND

22 2. A SEPARATE MEMORANDUM OF THE PARTY'S LAST FINAL
23 OFFER PRESENTED IN NEGOTIATIONS ON ALL ITEMS TO WHICH THE PARTIES DID
24 NOT PREVIOUSLY AGREE.

25 (IV) 1. ON OR BEFORE JANUARY 23, THE ARBITRATOR SHALL
26 HOLD A NONPUBLIC HEARING ON THE PARTIES' PROPOSALS AT A TIME, DATE, AND
27 PLACE SELECTED BY THE ARBITRATOR.

28 2. EACH PARTY SHALL SUBMIT EVIDENCE OR MAKE ORAL
29 AND WRITTEN ARGUMENT IN SUPPORT OF THE PARTY'S LAST FINAL OFFER.

30 3. THE ARBITRATOR MAY NOT OPEN THE HEARING TO A
31 PERSON WHO IS NOT A PARTY TO THE ARBITRATION.

32 (V) 1. ON OR BEFORE JANUARY 30, THE ARBITRATOR SHALL
33 ISSUE A REPORT SELECTING BETWEEN THE FINAL OFFERS SUBMITTED BY THE
34 PARTIES THAT THE ARBITRATOR DETERMINES TO BE MORE REASONABLE, VIEWED
35 AS A WHOLE.

36 2. IN DETERMINING THE MORE REASONABLE OFFER, THE
37 ARBITRATOR MAY CONSIDER ONLY THE FOLLOWING FACTORS:

1 A. PAST COLLECTIVE BARGAINING CONTRACTS BETWEEN
2 THE PARTIES, INCLUDING THE PAST BARGAINING HISTORY THAT LED TO THE
3 AGREEMENT OR THE PRE-COLLECTIVE BARGAINING HISTORY OF EMPLOYEE WAGES,
4 HOURS, BENEFITS, AND OTHER WORKING CONDITIONS;

5 B. A COMPARISON OF WAGES, HOURS, BENEFITS, AND
6 OTHER CONDITIONS OF EMPLOYMENT OF POLICE OFFICERS IN MONTGOMERY
7 COUNTY AND PRINCE GEORGE'S COUNTY;

8 C. THE PUBLIC INTEREST AND WELFARE;

9 D. THE ABILITY OF THE EMPLOYER TO FINANCE ANY
10 ECONOMIC ADJUSTMENTS REQUIRED UNDER THE PROPOSED AGREEMENT; AND

11 E. THE EFFECTS OF ANY ECONOMIC ADJUSTMENTS ON THE
12 STANDARD OF PUBLIC SERVICES NORMALLY PROVIDED BY THE EMPLOYER.

13 3. IN DETERMINING THE MOST REASONABLE OFFER, THE
14 ARBITRATOR SHALL CONSIDER TO BE INTEGRATED WITH EACH OFFER ALL ITEMS ON
15 WHICH THE PARTIES AGREED PRIOR TO THE ARBITRATION.

16 4. THE ARBITRATOR MAY NOT RECEIVE OR CONSIDER THE
17 HISTORY OF COLLECTIVE BARGAINING RELATING TO THE IMMEDIATE DISPUTE,
18 INCLUDING ANY OFFERS OF SETTLEMENT NOT CONTAINED IN THE OFFER
19 SUBMITTED TO THE ARBITRATOR.

20 (VI) THE ARBITRATOR MAY NOT COMPROMISE OR ALTER THE FINAL
21 OFFER THAT THE ARBITRATOR SELECTS.

22 (VII) SUBJECT TO SUBSECTION (F)(5) OF THIS SECTION, WITHOUT
23 RATIFICATION BY THE PARTIES, THE OFFER SELECTED BY THE ARBITRATOR,
24 INTEGRATED WITH THE ITEMS TO WHICH THE PARTIES PREVIOUSLY AGREED, SHALL
25 BE THE FINAL AGREEMENT BETWEEN THE COMMISSION AND THE EXCLUSIVE
26 REPRESENTATIVE.

27 (VIII) THE PARTIES SHALL EXECUTE AN AGREEMENT
28 INCORPORATING THE FINAL AGREEMENT, INCLUDING ARBITRATION AWARDS AND
29 ALL ISSUES AGREED TO UNDER THIS PARAGRAPH.

30 (IX) THE COMMISSION AND THE EMPLOYEE ORGANIZATION SHALL
31 SHARE EQUALLY IN PAYING THE COSTS OF THE ARBITRATOR'S SERVICES.

32 [(5)] (6) Employees may not engage in a strike.

33 [(6)] (7) If a strike of employees occurs, a court of competent jurisdiction
34 may, upon request of the MNCPPC, enjoin the strike.

35 [(7)] (8) An employee may not receive pay or compensation from the
36 MNCPPC for any period during which the employee is engaged in a strike.

1 [(8)] (9) If an employee organization certified as an exclusive
2 representative engages in a strike, its certification as exclusive representative shall
3 be revoked by the Commissioner, and that employee organization or any other
4 employee organization which engages in a strike shall be ineligible to be certified as
5 an exclusive representative for a period of 1 year following the end of the strike.

6 (f) (1) A collective bargaining agreement shall be executed by the MNCPPC
7 and the exclusive representative incorporating any matters of agreement reached on
8 wages, hours, and other terms and conditions of employment, and may include dues
9 and maintenance or service fees taken from payroll deduction.

10 (2) A collective bargaining agreement may include a provision for the
11 arbitration of grievances arising under an agreement.

12 (3) A discussion of the terms of employee retirement systems is
13 permitted in the course of collective bargaining, but the discussion of the hiring
14 practices of MNCPPC is prohibited.

15 (4) The terms of the agreement shall supersede any conflicting rules,
16 regulations, and administrative policies of the MNCPPC.

17 (5) [Any request for funds necessary to implement the agreement shall
18 be submitted by the MNCPPC in a timely fashion for consideration in the budget
19 process of Prince George's County and Montgomery County.]

20 (I) THE ECONOMIC PROVISIONS OF A FINAL AGREEMENT ARE
21 SUBJECT TO FUNDING BY THE MONTGOMERY AND PRINCE GEORGE'S COUNTY
22 COUNCILS.

23 (II) THE COMMISSION SHALL REQUEST FUNDS IN THE
24 COMMISSION'S FINAL BUDGET FROM THE COUNTY COUNCILS FOR ALL ECONOMIC
25 PROVISIONS OF A FINAL AGREEMENT.

26 (6) If the request for funds necessary to implement the agreement is
27 reduced, modified, or rejected by the governing bodies of Prince George's County and
28 Montgomery County, either party to the agreement [may], no later than [20] 5 days
29 after final budget action by the governing bodies, SHALL reopen the NEGOTIATED
30 agreement AND BARGAIN WITH RESPECT TO THE PROVISIONS OF THE AGREEMENT
31 NOT APPROVED BY THE COUNTY COUNCILS.

32 (7) IF A PROVISION IN A COLLECTIVE BARGAINING AGREEMENT IS
33 RULED INVALID OR IS NOT FUNDED BY MONTGOMERY COUNTY OR PRINCE GEORGE'S
34 COUNTY, THE REMAINDER OF THE AGREEMENT REMAINS IN EFFECT UNLESS
35 REOPENED UNDER PARAGRAPH (6) OF THIS SUBSECTION.

36 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
37 October 1, 2001 and shall apply to all bargaining cycles that begin after the effective
38 date of this Act.